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September 16, 2010

Kathleen Sebelius
Secretary, Department of Health and Human Services
Attention: OCIIO-9992-IFC
Office of Consumer Information and Insurance Oversight
P.O. Box 8016
Baltimore, MD 21244-1850.

Dear Secretary Sebelius:

The National Kidney Foundation (NKF) appreciates the opportunity to comment on the "Interim Final Rules for Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services Under the Patient Protection and Affordable Care Act," Federal Register, July 19, 2010.

Based on National Health and Nutrition Examination Surveys (NHANES) data, an estimated 26 million adult Americans have Chronic Kidney Disease (Josef Coresh, et al. Prevalence of Chronic Kidney Disease in the United States, *JAMA*, November 7, 2007—Vol 298, No 17, pp 2038-2047.) The prevalence of CKD in the United States in 1999-2004 was higher than it was in 1988-1994. This growth is in part due to the increasing prevalence of diabetes and hypertension in this country. Early detection of diabetes and hypertension, in conjunction with appropriate interventions for these diseases, is key to NKF's goal of reducing the incidence and prevalence of CKD, preventing or delaying the progression of CKD to kidney failure, and avoiding the cardiovascular complications that disproportionately affect individuals with CKD, in combination with diabetes and/or hypertension.

For these reasons, NKF wants to be certain that the maximum number of Americans in group health plans and private health insurance programs can avail themselves of the enhanced access to preventive services facilitated by the Affordable Care Act (ACA). 100% coverage of preventive services is an important new benefit for many plan enrollees. Accordingly, clear notice should be provided to plan enrollees about elimination of cost sharing for recommended preventive screenings and services as well as specific information about the types of preventive screenings and services that are available without cost sharing. To ensure standardization, HHS and DOL should provide standard language for plans to use.

The final regulation should also address potential barriers to access for preventive services that are not discussed in Interim Final Rule. For example, the Interim Final Rule states that screenings/services provided out-of-network are subject to cost sharing. We recommend that the Final Rule make it clear that cost-sharing for out-of-network screenings should not be any higher than for any other health care services provided out-of-network. Similarly, although the ACA gives the Secretary authority to create guidelines for use of value-based insurance design (VBID), VBID should not be used to limit access to preventive services, e.g., a plan should not be allowed to limit free preventive care to participants who participate in disease management or wellness programs.

Furthermore, the Interim Final Regulations are silent as to enforcement/oversight of plans. The Final Rule should clearly address this issue- including specific appeal rights. Finally, the regulations should provide for the Departments (HHS and DOL) to exercise oversight over plan compliance with these regulations.

Thank you for your attention to the concerns of the National Kidney Foundation.

Sincerely,

Bryan Becker

Bryan N. Becker, MD
President